

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KERRY L. TEETOR,

Plaintiff,

v.

DAWSON PUBLIC POWER DISTRICT, a  
political subdivision of the State of  
Nebraska, and ROBERT L. HEINZ,

Defendants.

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4:09CV3176

MEMORANDUM AND ORDER

The plaintiff's complaint, removed to this forum from the District Court of Dawson County, Nebraska, did not specifically request a jury trial, (filing no. [1](#)), and the defendants' answer, (filing no. [11](#)), did not request a trial by jury. However, the parties' Rule 26(f) Report, filed on November 3, 2009, (filing no. [9](#)), stated:

The parties disagree on whether trial by jury is available in this case. Plaintiff will demand [a] jury trial within 15 days of the filing of this report. A motion to strike the Plaintiff's demand for jury trial will be filed no later than 30 days thereafter.

Filing No. [9](#), p. 13. The plaintiff filed his jury demand on November 18, 2009. The defendants' motion to strike the plaintiff's jury demand, (filing no. [17](#)), is currently pending and fully submitted for the court's consideration.

The plaintiff's complaint seeks an award of damages arising from the alleged unlawful termination of his employment. The named defendants include both Dawson Public Power District, a political subdivision of the State of Nebraska, and its employee, Robert L. Heinz, in his individual capacity. There is no right to a trial by jury in actions brought by or against a Nebraska political subdivision. See, [Ojeda v. City of Scottsbluff, 2008 WL 5100210, 1 \(D. Neb. 2008\)](#); [Harders v. Grand Island Public Schools, 2006 WL 2528524, 2 \(D. Neb. 2006\)](#); [Westcott v. City of Omaha, 1988 WL 383125, \\*2 \(D.Neb. 1988\)](#); [Buss v. Douglas, 59 F.R.D. 334, 335 \(D. Neb. 1973\)](#). However,

there is a right to a jury trial in actions for damages against officers or employees of the political subdivision sued in their individual capacities.

Accordingly,

IT IS ORDERED that the defendants' motion to strike the plaintiff's jury demand, (filing no. [17](#)), is granted in part and denied in part as follows:

- 1) As to plaintiff's damage claims against Dawson Public Power District, a political subdivision of the State of Nebraska, or any of its employees in their official capacities, the plaintiff's jury demand is stricken.
- 2) The plaintiff is entitled to a trial by jury on his damage claims against defendant Robert L. Heinz, in his individual capacity.

DATED this 25th day of January, 2010.

BY THE COURT:

s/ Cheryl R. Zwart

Cheryl R. Zwart

United States Magistrate Judge